

Sumter City-County Board of Appeals

February 10, 2010

BOA-09-26, 1029 Broad Street (City) REHEARING

I. THE REQUEST

Applicant:	Parthena Panteliodis
Status of the Applicant:	Property Owner
Request:	A variance from the strict application of Article 8, Section J of the Sumter City Zoning Ordinance, landscaping retrofitting requirements.
Location:	1029 Broad Street
Present Use/Zoning:	Vacant former restaurant/General Commercial, Highway Corridor Protection District (GC/HCDP)
Tax Map Reference:	229-01-01-002

II. BACKGROUND

At the December meeting of the Sumter City-County Board of Zoning Appeals, the applicant, Parthena Panteliodis, was the recipient of a variance on the number of parking spaces required for her use as well as the strict application of the landscaping requirements for retrofitting parking lots on commercial property in the City of Sumter.

The applicant intends to lease the property for a restaurant. Currently, the subject property has one building on the site, minimal landscaping, and 42 paved parking spaces. The site plan shows that the applicant can fit 45 spaces on the property with some landscaping. The applicant has made arrangements, or will make arrangements, to lease or otherwise legally utilize three (3) parking spaces from a neighboring business owner. These spaces will be within 400 feet of the door of the structure on the property at 1029 Broad Street in order to be compliant with the ordinance and the building code. This is in fulfillment of the total number of 48 spaces that the Board granted at the December meeting. The total number required according to the ordinance is 52 spaces and is based on the total square footage of the building and the proposed use as a restaurant.

III. THE REQUEST

Ms. Panteliodis is requesting further relief than was granted by the Board in the December meeting, because she is unable to provide the specific bufferyards that the Board required.

A copy of the Board's requirements is attached to this report in the form of the Result Letter that was sent to the applicant.

The applicant has submitted a site plan showing the proposed landscaping, including the trees, shrubs, and other plantings required by the Board. In order to fit the required number of parking spaces with the required width, she is unable to fit the four (4) foot bufferyards on both sides of the property. The applicant is able to fit *all* of the other landscaping, including the required number of trees, shrubs, and the privacy fence, and agrees to do so, as shown on the site plan.

The applicant's engineer and staff have worked together to come up with a feasible alternative that could be considered to honor the intent of the ordinance, which is to break up parking lots and provide a pleasing aesthetic as well as some stormwater absorption and resulting drainage control. In lieu of the bufferyards, the applicant submits that a "greenscreen" or "green fence" would provide both the separation between the properties that the Board required and also would fulfill some landscaping functionality, in that an aesthetically pleasing green area will be provided. The illustrations below show what the "green fence" could look like.



These structures are essentially a heavy-gauge wire mesh that supports the growth of sturdy plants such as evergreen or flowering vines and similar hardy plants. They could be installed with an attendant watering system and are relatively low-maintenance.

Given the configuration of the property that is shown in the accompanying site plan, it appears that this may be the most practical solution for meeting the spirit of the full landscaping requirements given this particular property's size, configuration, and the location of the present structures and site characteristics, including the layout and design of the parking lot. The applicant is requesting that the Board amend their previously issued variance in regards to the bufferyards *only*. In lieu of the bufferyards, the applicant is requesting a green screen or green fence structure be placed, that will be watered and maintained so that a fully functional wall of vegetation will separate the parking lots and adjoining properties.

The location of the green screens is along the property line on the north and south sides of the parking areas. An opening should be provided along the property that leases the three (3) parking spaces, and the location of this should be shown on the submitted site plan. This opening will



IV. FOUR-PART TEST

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

There are extraordinary or exceptional conditions pertaining to this particular piece of property based on the following:

The property is an existing building that is located in the Highway Design Corridor. It is similar to many other buildings located in the immediate area in that it was built and the site was developed prior to the current ordinance, and is therefore nonconforming as to parking lot improvements and landscaping. Like many lots on Broad Street, this lot is narrow and the building takes up a substantial proportion of the property. Prior to this rehearing, the applicant did not submit a site plan that definitively showed exactly how many parking spaces and how much landscaping would actually fit on the property. It now appears that this parcel is unusually constrained due to narrow width and the size of the existing structure, when compared to other sites in the area.

- 2. These conditions do not generally apply to other property in the vicinity.**

These conditions *do not* generally apply to other properties in the vicinity based on the following:

There is a variety of sizes and shapes of parcels in this area; however, all of the parcels in the area are governed by the same set of rules and circumstances as this parcel. Staff has revisited the area with the additional consideration and information that is now available with the site plan. It does not appear that other parcels in the vicinity are constrained to the extreme degree that this parcel is limited with regards to fitting bufferyards and parking spaces on the property. With full landscaping, including bufferyards, it appears that approximately one-half the presently available parking with required aisle widths would actually fit on the parcel. This cuts down the amount of available parking to less than what is practical to require, given the size of the building, and further limits the number of uses that could conceivably go on the property.

3. *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

Application of the ordinance requirement *will* prohibit or unreasonably restrict the utilization of this property due to the following:

Parking and landscaping are a requirement of the ordinance and therefore must be complied with and is calculated according to the proposed use. There are other uses that may be placed on the property that have fewer parking requirements. However, given the information now available with a scaled site plan, it appears that these uses would be similarly constrained because the parking spaces and accompanying driving aisle widths that are required will not fit with full, or even the previously-granted four-foot bufferyards on the property, which are one (1) foot narrower than is required by the Ordinance. In order to fit parking and aisle widths, there is no space left for a bufferyard on either side of the property.

4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.*

The larger concern in granting a variance on this property was for the maximum number of parking spaces. The Board's previous decision has addressed this, and the applicant is providing the number of parking spaces the Board required.

The landscaping that is being offered by the applicant will provide the functionality that a bufferyard could also provide in protecting neighboring properties from spillover from the parking lots, and also addressing a pleasing aesthetic along the Highway Corridor. To deny the variance for relief from the landscaping requirements could put the applicant at a considerable disadvantage after having spent months in trying to meet the ordinance as much as is possible on this parcel, and result in the property remaining vacant. Granting the variance will allow the applicant to

demonstrate a workable alternative to the bufferyard requirement that could conceivably be utilized on other properties that are challenged in regards to meeting parking and landscaping requirements.

V. STAFF RECOMMENDATION

Staff has worked extensively with the applicant in order to prepare the amended application for BOA-09-26 based on the fact the Board's parking requirements are met, that the full number of trees, shrubs, and fencing are met, and as regards the bufferyards we believe that this is a workable alternative, and that the requirements of the Four-Part Test are met with regards to the bufferyards *only*.

With that in mind, Staff recommends approval with the following conditions:

1. That all previous conditions and specifications of the Board decision on BoA-09-26 be adhered to, with the exception of the four-foot bufferyard requirement;
2. That the four-foot bufferyard requirement along the north and south property lines referenced in the previous approval conditions given by the Board of Appeals in December 2009 be met by a "green fence," and that three trees and three shrubs be planted along the rear property line near the privacy fence;
3. That the "green fence" be constructed along the north and south property lines as follows:
 - That the green fencing be constructed with a footing or foundation for stability and public safety;
 - Constructed of heavy-gauge metal with spaces designed to support healthy vegetative growth;
 - That the green fencing be four (4) feet high;
 - That the green fencing contain an opening along the property line where the three (3) parking spaces will be located so that patrons may walk from their cars to the door of the establishment unimpeded, and that the opening meet ADA accessibility requirements;
 - That the green fencing be planted with evergreen vegetation that is hardy and viable, and that an attendant watering system is incorporated into the design and construction of the green fencing.

VI. DRAFT MOTIONS for BOA-09-26

- A. I move that the Sumter Board of Appeals approve BOA-09-26 (as amended) with Staff's recommendations as to all conditions included, subject to the findings of fact and conclusions contained in the draft order dated February 10, 2010 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-09-26 (as amended) on the following findings of fact and conclusions:

C. I move that the Sumter Board of Appeals enter an alternative motion for BOA-09-26 (as amended).

VII. ZONING BOARD OF APPEALS – FEBRUARY 10, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, February 10, 2010, voted to accept staff's alternate recommendation and approve this request, based on the findings of fact and conclusions on exhibit 1.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-09-26, 1029 Broad Street, Sumter, SC.
December 9, 2009

Date Filed: December 9, 2009

Permit Case No. BOA-09-26

The Board of Zoning Appeals held a public hearing on Wednesday, December 9, 2009 to consider the request of Parthena Pantellodis, 1029 Broad Street, Sumter, SC 29150 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The property is an existing building that is located in the Highway Design Corridor. It is similar to many other buildings located in the immediate area in that it was built and the site was developed prior to the current ordinance, and is therefore nonconforming as to parking lot improvements and landscaping. Like many lots on Broad Street, this lot is narrow and the building takes up a substantial proportion of the property. Prior to this rehearing the applicant did not submit a site plan that definitively showed exactly how many parking spaces and how much landscaping would actually fit on the property. It now appears that this parcel is unusually constrained due to narrow width and the size of the existing structure, when compared to other sites in the area.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

There is a variety of sizes and shapes of parcels in this area; however, all of the parcels in the area are governed by the same set of rules and circumstances as this parcel. Staff has revisited the area with the additional consideration and information that is now available with the site plan. It does not appear that other parcels in the vicinity are constrained to the extreme degree that this parcel is limited with regards to fitting bufferyards and parking spaces on the property. With full landscaping, including bufferyards, it appears that approximately one-half the presently available parking with required aisle widths would actually fit on the parcel. This cuts down the amount of available parking to less than what is practical to require, given the size of the building, and further limits the number of uses that could conceivably go on the property.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

Parking and landscaping are a requirement of the ordinance and therefore must be complied with and is calculated according to the proposed use. There are other uses that may be placed on the property that have fewer parking requirements. However, given the information now available with a scaled site plan, it appears that these uses would be similarly constrained because the parking spaces and accompanying driving aisle widths that are required will not fit with full, or even the previously-granted four-foot bufferyards on the property, which are one (1) foot narrower than is required by the Ordinance. In order to fit parking and aisle widths, there is no space left for a bufferyard on either side of the property.

4. The Board concludes that authorization of the variance ☐ **will** – ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ **will** - ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

The landscaping that is being offered by the applicant will provide the functionality that a bufferyard could also provide in protecting neighboring properties from spillover from the parking lots, and also addressing a pleasing aesthetic along the Highway Corridor. To deny the variance for relief from the landscaping requirements could put the applicant at a considerable disadvantage after having spent months in trying to meet the ordinance as much as is possible on this parcel, and result in the property remaining vacant. Granting the variance will allow the applicant to demonstrate a workable alternative to the bufferyard requirement that could conceivably be utilized on other properties that are challenged in regards to meeting parking and landscaping requirements.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED** – ☒ **GRANTED**, subject to the following conditions:

4. That all previous conditions and specifications of the Board decision on BoA-09-26 be adhered to, with the exception of the four-foot bufferyard requirement;
5. That the four-foot bufferyard requirement along the north and south property lines referenced in the previous approval conditions given by the Board of Appeals in December 2009 be met by a “green fence,” and/or 3 trees and 4 shrubs at the south property line as shown on the approved site plan and that three trees and three shrubs be planted along the rear property line near the privacy fence;
6. That the “green fence” be constructed along the north and south property lines as follows:
 - That the green fencing be constructed with a footing or foundation for stability and public safety;

- Constructed of heavy-gauge metal with spaces designed to support healthy vegetative growth;
- That the green fencing be four (4) feet high;
- That the green fencing contain an opening along the property line where the three (3) parking spaces will be located so that patrons may walk from their cars to the door of the establishment unimpeded, and that the opening meet ADA accessibility requirements;
- That the green fencing be planted with evergreen vegetation that is hardy and viable, and that an attendant watering system is incorporated into the design and construction of the green fencing.

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.